REMARKS

The Communication of February 14, 2005 has been received and reviewed. Claims 1-48 are pending in the application and are subject to a Restriction Requirement. Claims 8, 9, 12-19, 24, 31, 32, 35, 36 and 44-46 have been amended. New claims 49 and 50 have been added. No new matter has been added. All amendments are made without prejudice or disclaimer. Substantive examination of the application is requested.

Amendments to the Claims

Amendments to the claims 36, 44 and 46 were to correct dependencies. Additionally, as amended, claims 8, 9, 12, 24, 31, 35 and 45 depend from claim 7. Claims 13-19 and claim 32 were amended consistent with the change in dependency to a method claim. All amendments are made without prejudice or disclaimer. New claims 49 and 50 are added and also depend from claim 7.

Restriction Requirement

Claims 1-48 are currently pending in the application and subject to a Restriction Requirement. Applicants elect, without traverse, to prosecute the invention of Group 3 containing claim 7.

The Communication also requested that applicants, upon election of any of Groups 1-48, select either a sequence corresponding to histidine or argenine at the X position in SEQ ID NOS: 1 or 3. (*See* Office Action at page 15). The communication states that these sequences are distinct species because "the structures of the resulting sequences are different." (*Id.*). Applicants provisionally elect SEQ ID NO:2, containing a histidine residue at position X of SEQ ID NO: 1, with traverse, for examination.

This election is made with traverse since the Examiner cites no statutory or regulatory authority for the basis of this requirement. M.P.E.P. § 803.04 states, in part, that "the Commissioner has decided *sua sponte* to partially waive the requirements of 37 C.F.R. 1.141 *et seq.* and permit a reasonable number of such nucleotide sequences to be claimed in a single application." (*See also*, MPEP § 2434, allowing, "in most cases, up to 10 independent and distinct nucleotide sequences" to be examined in a single application). Nucleotide sequences

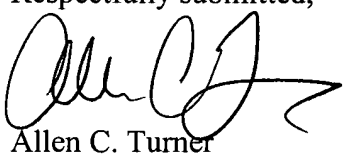
encode for peptide sequences and thus peptide sequences are analogous to nucleotide sequences for the purpose of this waiver. As such, applicant requests examination of only two sequences (SEQ ID NOS: 2 and 10) which are related by a single amino acid change. As evidence of the reasonableness of this request, the parent application, U.S. Patent 6,878,375, recites sequences containing histidine (SEQ ID NO:2) and argenine (SEQ ID NO:10) in the X position of SEQ ID NO:1 and both were examined. This application is a continuation in part of then co-pending application U.S. Serial No. 09/489,760, now U.S. Patent 6,878,375, filed on January 21, 2000. In the parent application, the Office Action of September 13, 2001 indicates at item 3 that the prior art search covered both variations, X substituted with argenine and X substituted with histidine, and that substantive examination covered both peptide sequences. (*See*, Office Action of September 13, 2001, page 2). Therefore, examination of both species was not a burden. Thus, applicants request examination of both sequences (SEQ ID NOS: 2 and 10).

The Communication further states that "all claims other than 2, 3, 5 and 6 are generic" and that applicants must list all claims readable on the species elected. (*See*, Office Action, at page 15). All generic claims, including claims 1, 4 and 7-48, are readable on the sequence selected.

CONCLUSION

In view of the foregoing amendments and remarks, the applicants respectfully submit that the claims define patentable subject matter and substantive examination is requested. Should the Office determine that additional issues remain which might be resolved by a telephone conference, the Office is invited to contact the applicants' attorney at the address or telephone number given herein.

Respectfully submitted,



Allen C. Turner
Registration No. 33,041
Attorney for Applicants
TRASKBRITT, P.C.
P.O. Box 2550
Salt Lake City, Utah 84110-2550
Telephone: 801-532-1922
Facsimile: 801-531-9168

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